

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20485

OVER

Application 29419 of Preferred Vineyard Properties, Inc.

P.O. Box 111, St. Helena, California 94574

filed on February 28, 1989, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

(1) Barrelli Creek

Russian River

(2) Russian River Underflow

Pacific Ocean

(3) Unnamed Stream

Russian River

2. Location of point of diversion:

40-acre subdivision
of public land survey
or projection thereof

*
Section

Town-
ship

Range

Base
and
Meridian

DIRECT DIVERSION AND DIVERSION TO OFFSTREAM STORAGE

(1) NORTH 5,450 FEET AND EAST 2,125 FEET FROM
SW CORNER OF PROJECTED SECTION 33

SE $\frac{1}{4}$ OF SW $\frac{1}{4}$

28

11N

10W

MD

(2) NORTH 5,625 FEET AND EAST 5,875 FEET FROM
SW CORNER OF PROJECTED SECTION 33

SW $\frac{1}{4}$ OF SW $\frac{1}{4}$

27

11N

10W

MD

DIRECT DIVERSION, REDIVERSION, AND STORAGE

(3) RESERVOIR NO. 38 - NORTH 450 FEET AND EAST 8,600 FEET
FROM SW CORNER OF PROJECTED SECTION 33

SW $\frac{1}{4}$ OF SE $\frac{1}{4}$

34

11N

10W

MD

OFFSTREAM STORAGE

RESERVOIR NO. 1N

SE $\frac{1}{4}$ OF SW $\frac{1}{4}$

28

11N

10W

MD

County of Sonoma

* projected

3. Purpose of use:

4. Place of use:

*
Section

Town-
ship

Range

Base
and
Meridian

Acres

FROST PROTECTION

IRRIGATION

A NET AREA OF 350 ACRES WITHIN
A GROSS AREA OF 560 ACRES LOCATED
WITHIN THE FOLLOWING PROJECTED
SECTIONS:

SW $\frac{1}{4}$ OF SW $\frac{1}{4}$

27

11N

10W

MD

SE $\frac{1}{4}$

28

11N

10W

MD

NE $\frac{1}{4}$

33

11N

10W

MD

NW $\frac{1}{4}$

34

11N

10W

MD

SE $\frac{1}{4}$

34

11N

10W

MD

NE $\frac{1}{4}$ OF NW $\frac{1}{4}$

3

10N

10W

MD

The place of use is shown on map on file with the State Water Resources Control Board.

WRCB 14 (6-90)

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 2.9 cubic feet per second by direct diversion to be diverted from March 1 to July 31 of each year for irrigation purposes and a total of 288 acre-feet per annum by storage to be collected from November 1 of each year to June 30 of the succeeding year for frost protection and irrigation purposes as follows: 49 acre-feet per annum in Reservoir No. 1N, 95 acre-feet per annum in Reservoir No. 3S, and replenishment of 144 acre-feet per annum. The total amount of water to be taken from the source shall not exceed 688 acre-feet per water year of October 1 to September 30. (0000005)

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

7. The maximum rate of diversion to offstream storage shall not exceed 15 cubic feet per second. (000005J)

8. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

9. Construction work shall be completed by December 31, 1993. (0000008)

10. Complete application of the water to the authorized use shall be made by December 31, 1996. (0000009)

11. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

12. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

13. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

14. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

15. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

16. During the direct diversion season specified in this permit, the total quantity and rate of water directly diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of direct diversion and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of direct diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the Board. Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

17. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue. (0000025)

18. The equivalent of the authorized continuous direct diversion flow allowance for any 30-day period may be diverted in a shorter time, provided there is no interference with other rights and instream beneficial uses, and provided further that all terms and conditions protecting instream beneficial uses are observed. (0000027)

19. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam of Reservoir No. 3S as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. (0050043)

20. For the purposes of determining the amount of water diverted and used under this permit, permittee shall install and maintain devices satisfactory to the State Water Resources Control Board, necessary to verify the amount of water diverted from each of the specified points of diversion and the amount of water diverted into and released from Reservoir No. 1N and Reservoir No. 3S. Permittee shall submit records of said water diversions to the Board each year with annual progress reports. (0060046)

21. If the storage dam for Reservoir No. 3S will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction of Reservoir No. 3S shall not be commenced until the Department has approved the plans and specifications for the dam. (0360048)

22. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of Reservoir No. 3S of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes. (0120050)
23. For the protection of riparian vegetation located downstream of Reservoir No. 3S, permittee shall bypass a minimum of 0.33 cubic foot per second or the natural flow, whichever is less, at point of diversion No. 3 designated in this permit during construction and the authorized diversion season. (0140060)
24. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flow required by the conditions of this permit. Said measuring device shall be properly maintained. (0060062)
25. To protect significant cultural resources identified at the archeological site identified as Asti 1, the permittee shall clearly and permanently establish markers that will prevent disturbance during the preparation, planting and maintenance of the new vineyard. Development of the area comprising Asti 1 may be permitted at a future date following the completion of a cultural resource testing and data recovery study approved by the Chief, Division of Water Rights. (0380500)
26. Availability of water for appropriation under this permit during the critical period of approximately July 1 through October 31 is dependent upon water remaining available under the 10,000 acre-foot per annum allocation of water from Lake Mendocino for use in the Russian River Valley in Sonoma County. If subsequent studies show that the above-mentioned allocation has been fully used before use is completed under this permit, a license shall be issued only for the amount of water, if any, which has been put to use under this permit and which is included in the allocation. (0000081)
27. The total quantity of water diverted under this permit, together with that diverted under permits issued pursuant to Applications 29418 and 29437, shall not exceed 1,388 acre-feet per annum. (0000114)
28. The State Water Resources Control Board reserves jurisdiction in the public interest to modify the terms and conditions of this permit, including imposition of requirements to alter project facilities or operations and to modify instream flow releases, in the event of unforeseen adverse impacts to fish or wildlife. Board action will be taken only after notice to interested parties and opportunity for hearing. (000M001)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

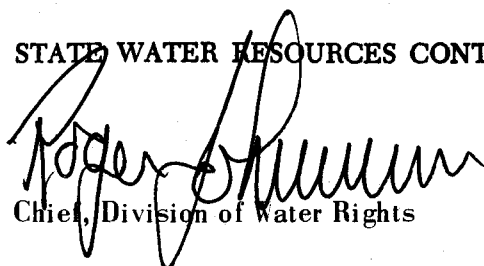
Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

JANUARY 09 1990

STATE WATER RESOURCES CONTROL BOARD


Chief, Division of Water Rights